

AGENCY FOR HEALTH CARE ADMINISTRATION (AHCA)
EMPLOYMENT DISQUALIFICATIONS AND BACKGROUND SCREENS

(revised 8/12/2010)

The Florida Agency for Health Care Administration (AHCA), Background Screening Unit (BGS), is responsible for screening any health professionals who work in a health facility such as a nursing home, hospital long term care facility, home health agency or health care clinic. We have seen a number of recent background screens on physicians, nurses, nurse practitioners, physical therapists and others applying for employment at such facilities coming back with old arrests, many which were previously dismissed decades ago. When this occurs, it is crucial that the health provider respond immediately, providing all requested documentation and information. We recommend you consult an experienced health attorney about this immediately.

We have seen a number of cases recently with extremely old arrests that have never been questioned before on any licensure application or employment application. Within a week, one of our clients received a letter from AHCA questioning an arrest 42 years earlier in another state and a client receiving an inquiry about an arrest occurring 30 years earlier in another state. We believe the wider sharing of criminal arrest and investigation records, especially those from other states and federal authorities, may be prompted by the Patriot Act, making these records more accessible to law enforcement authorities.

In many cases our clients have found that the records related to the arrest and disposition of the offense are no longer available. Some courts and law enforcement authorities only keep such records a certain period of time and destroy them (e.g., 10 or 20 years). In other cases the records were destroyed by fires or natural disasters (e.g., Hurricane Katrina destroyed almost all criminal records from New Orleans).

We recommend you:

1. Seek to obtain certified copies of any prior or old arrests and disposition of these arrests from the police/law enforcement authority that initiated it, from the criminal court that adjudicated it, or from your criminal defense attorney, now. It may not be available later when you need it.
2. If the record is not available, obtain a certified/notarized letter or statement as to this fact, now.
3. Apply to have any old arrests or criminal offenses sealed or expunged if this is permissible under the jurisdiction's laws. Do it now, as laws change and this may not be available in the future.
4. When you respond to AHCA, do so via a reliable method of delivery which provides tracking and delivers you a receipt, not e-mail or fax, alone. We usually recommend reporting such matters via U.S. Express Mail, with a return receipt requested. Be sure to keep copies of the correspondence, the receipt of mailing and

the return receipt, to document reporting and delivery dates, and to prove receipt.

5. A waiver from AHCA or an expunction may be available. A health attorney experienced with these can assist you.

(Note: For informational purposes only; not legal advice.)

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